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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 742,520	12 20 2000	Ilham Saleh Abuljadayel	674528-2001.2	9656

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NEW YORK, NY 10151

EXAMINER

SAUNDERS, DAVID A

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 07.18.2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/742,520

Applicant(s)

ABULJADAYEL, ILHAM SALEH

Examiner

David A Saunders, PhD

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on 21 May 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 47-79.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 2. NOTE: Deletion of material from specification is new matter, since what is to be deleted from specification is not an obvious error but, rather, an intended attempt to define the invention as broadly as possible. Deletion of "bone marrow" from claim 52 is done for no apparent reason (no rejection was made regarding this term) and raises various new issues beyond the scope of what can be considered in a cursory manner after FINAL (why was this deleted, does this deletion change interpretation of the claims, is applicant aware of uncited prior art?)

Continuation of 5. does NOT place the application in condition for allowance because: "Low" remains indefinite since applicant is not permitted to enter new matter into specification by deleting his own contemplation of the scope of "low". Applicant's arguments are unconvincing regarding the 112, new matter rejection, and the arguments would raise considerations that would require more than a cursory review to either accept or rebut. Likewise the considerations of newly submitted abstracts would require more than a cursory review, in order to either withdraw or maintain the 101, utility rejection. The statement that "The obviousness type double patenting rejection is overcome" is in error since it cannot be overcome until a disclaimer is filed.

Continuation of 10. Other: IDS will not be considered: the number of references submitted is excessive and would require more than a cursory review after FINAL. The box of section 6 supra has been checked because submission of the IDS is tantamount to submission of a new exhibit; the 101 rejection was raised in Paper 8, prior to the FINAL rejection, and applicant could have earlier submitted references relating to utility of CD45 low cells.

David A. Saunders
DAVID SAUNDERS
PRIMARY EXAMINER
ART UNIT 182/674